UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/594,517	06/15/2000	Gerald Francis McBrearty	AUS000264US1	1942

7590   07/19/2004

Joseph T Van Leeuwen
P.O. Box 81641
Austin, TX 78708-1641

EXAMINER
SON, LINH L D

ART UNIT	PAPER NUMBER
2135	

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

> A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
> THE MAILING DATE OF THIS COMMUNICATION.
> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
>   after SIX (6) MONTHS from the mailing date of this communication.
> - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
> - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
> - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
> - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
>   earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>03 May 2004</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-27</u> is/are pending in the application.

    4a) Of the above claim(s) <u>6,14 and 22</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-5,7-13,15-21 and 23-27</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☒ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. *attachment*

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 15 and 16 are objected to because they are depending on a claim that has been canceled by the applicant. For the purpose of examining, examiner assumes claim 15 and 16 depending on claim 13. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

    (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 5, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mooney et al, hereinafter "Mooney", (US/6351813B1) in view of Guski et al, hereinafter "Guski", (US/6711679B1).

4. As per claims 1, 5, and 27, Mooney discloses the "Access Control/Crypto System" invention, which teaches a method for securely transmitting data in a computer network (internet) including in a plurality of computers, which have processor and memory (Col 3 lines 35-60). Mooney teaches a method of transmitting encrypted data using the password over an unsecured channel (Col 2 lines 1-11 and Col 3 lines 35-42). Mooney also teach the method of

transmitting the password in a secure channel to use for encrypting/decrypting the data. Mooney invention also is capable of providing a secure bi-directional file transfer system to protect sensitive information transmitting from one party to another (Col 2 lines 1-24). However, Mooney does not teach specifically the following: sending a request from a first computer to a second computer prior to establishing a secure connection; receiving a response from the second computer, whereby the response from the second computer, whereby the response informs the first computer that the second computer accepts encrypted data. Nevertheless, Guski discloses the "Public Key Infrastructure Delegation" invention, which teaches the method of sending a request from a client to a server to establish a secure connection. The method includes a handshaking process, which includes the responding from the server that is ready to accept the encrypted data (Col 2 lines 33-53). Therefore, it is obvious at the time of the invention was made for one of ordinary skill in the art to incorporate Guski teaching to initialize the request to start the secured channel for transferring the password to encrypt data to send back and forth.

5. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mooney et al, hereinafter "Mooney", (US/6351813) in view of Guski et al, hereinafter "Guski", (US/6711679B1) and further in view of Van Oorschot (US/6317829B1).

6.   As per claims 2 and 3, Mooney and Guski disclose the method as described in claim 1. However, Mooney and Guski do not further teach the sending a second password based on an even automatically, and the second password replacing the password as the encryption key. Nevertheless, Van Oorschot does teach a method of replacing the password when it is expired (Col 6 lines 21-32). Therefore, it is obvious at the time of the invention was made for one of ordinary skill in the art to incorporate Van oorschot teaching with Mooney and Guski method to ensure a high security level of encryption at all time.

7.   Claims 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mooney et al, hereinafter "Mooney", (US/6351813) in view of Guski et al, hereinafter "Guski", (US/6711679B1) and further in view of Tachibana, Noriyuki (JP363039228A).

8.   As per **claims 4 and 7,** Mooney and Guski disclose the method as described in claims 1. However, Mooney and Guski do not teach the changing the password using the counter as part of the password and incremented the counter after each transmission. Nevertheless, Tachibana, Noriyuki discloses the "Secret securing system" invention, which teaches a method of using of the inputted digit as part of the password (also well known in the art as Counter) as password information and the time interval of the inputting a password to check the validity of the password (See the Constitution and Abstract); It is obvious at the time of

the invention was made for one of ordinary skill in the art to incorporate the timer

(counter) as part of the password to expire the password or ensure the validity of

the password before accessing a secured resource (See the last sentence of the

constitution). Since the password transmission increment the input digit of the

password, it is also obvious that the transmission input digit here can be preset to

expire the password or initialize the sending of a replacement password (See the

2nd and 3rd sentence of the Constitution).

9.   Claims 8, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Mooney et al, hereinafter "Mooney", (US/6351813) in view of Guski et al,

hereinafter "Guski", (US/6711679B1) and further in view of Eberle et al (US-

4249180).

10.   As per claims 8, 9, and 10, Mooney and Guski disclose the method and the

apparatus as described in claim 1. However, Mooney and Guski do not teach:

the method of encrypting the data selectively; selection is based on determining

a sensitivity of the data; analyze and determine the data packet is encrypted or

not before deciphering it. Nevertheless, Eberle et al disclose the "Past

dependent microcomputer cipher apparatus" invention, which includes all the

features above. Eberle et al teach the use of the predetermined control

characters of the encoded data to selectively encrypting or deciphering (Col 1

lines 5-10). The predetermined control character can be used to mark the

sensitive data. Therefore it would be obvious at the time of the invention for one of ordinary skill in the art to combine method and as well the apparatus of Eberle et al with Scheidt method to ensure the integrity of the data file and to prevent hacker snooping the data content (Col 1 lines 20-25). Further more, Eberle et al invention mainly focus on a hardware apparatus. Nevertheless, the anticipation of using software instead of hardware to carry out the task is also clearly taught (Col 1 lines 45-55).

11. Claims 11, 12, 17, 19, 20, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mooney in view of Guski, and further in view of Nendell et al, hereinafter "Nendell", (US/668321B2).

12. As per claims 11, 12, 17, 19, 20, and 24, Claim 1 is incorporated. However, neither Mooney nor Guski teaches the sending a password from the first computer system to the second computer system. Nevertheless, Nendell discloses the "Verification of Identity of Participant in Electronic Communication" invention, which teaches a method of transmitting a password from the first computer to the second computer to unprotect (decrypt) the information (Col 3 lines 31-51). Therefore, It is obvious at the time of the invention was made for one of ordinary skill in the art to incorporate both teaching to allow the security initiation process of the sender and the receiver.

13.   Claims 13, 15, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mooney in view of Guski, further in view of Nendell, and further in view of Van Oorschot.

14.   As per claims 13, 15, and 21, Mooney, Guski and Nendell disclose the method as described in claims 11, 13, and 19. However, Mooney, Guski, and Nendell do not further teach the sending a second password based on an even automatically, and the second password replacing the password as the encryption key. Nevertheless, Van Oorschot does teach a method of replacing the password when it is expired (Col 6 lines 21-32). Therefore, it is obvious at the time of the invention was made for one of ordinary skill in the art to incorporate Van oorschot teaching with Mooney and Guski method to ensure a high security level of encryption at all time.

15.   Claims 16, 18, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mooney in view of Guski, further in view of Nendell, and further in view of Tachibana, Noriyuki.

16.   As per claims 16, 18, and 23, Mooney, Guski, and Nendell disclose the method as described in claims 11, 13, and 19. However, Mooney, Guski, and Nendell do not teach the changing the password using the counter as part of the password and incremented the counter after each transmission. Nevertheless, Tachibana,

Noriyuki discloses the "Secret securing system" invention, which teaches a

method of using of the inputted digit as part of the password (also well known in

the art as Counter) as password information and the time interval of the inputting

a password to check the validity of the password (See the Constitution and

Abstract); It is obvious at the time of the invention was made for one of ordinary

skill in the art to incorporate the timer (counter) as part of the password to expire

the password or ensure the validity of the password before accessing a secured

resource (See the last sentence of the constitution). Since the password

transmission increment the input digit of the password, it is also obvious that the

transmission input digit here can be preset to expire the password or initialize the

sending of a replacement password (See the 2nd and 3rd sentence of the

Constitution).

17.   Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Mooney in view of Guski, further in view of Nendell, and further in view of

Eberle.

18.   As per claims 25 and 26, Mooney, Guski, and Nendell disclose the method and

the apparatus as described in claim 19. However, Mooney, Guski, and Nendell

do not teach: the method of encrypting the data selectively; selection is based

on determining a sensitivity of the data; analyze and determine the data packet is

encrypted or not before deciphering it. Nevertheless, Eberle et al disclose the

"Past dependent microcomputer cipher apparatus" invention, which includes all the features above. Eberle et al teach the use of the predetermined control characters of the encoded data to selectively encrypting or deciphering (Col 1 lines 5-10). The predetermined control character can be used to mark the sensitive data. Therefore it would be obvious at the time of the invention for one of ordinary skill in the art to combine method and as well the apparatus of Eberle et al with Scheidt method to ensure the integrity of the data file and to prevent hacker snooping the data content (Col 1 lines 20-25). Further more, Eberle et al invention mainly focus on a hardware apparatus. Nevertheless, the anticipation of using software instead of hardware to carry out the task is also clearly taught (Col 1 lines 45-55).

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

20. Any inquiry concerning this communication from the examiner should be directed to Linh Son whose telephone number is (703)-305-8914.

21. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Kim Y. Vu can be reached at (703)-305-4393. The fax numbers for this group are (703)-872-9306 (official fax). Any inquiry of general nature or

relating to the status of this application or proceeding should be directed to the

group receptionist whose telephone number is (703)-305-9600.

AU 2135

LLS

Patent Examiner